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FM AMEMBASSY KUALA LUMPUR

TO RUEHC/SECSTATE WASHDC IMMEDIATE 3146

INFO RUCNASE/ASEAN MEMBER COLLECTIVE PRIORITY

RUEHBJ/AMEMBASSY BEIJING PRIORITY 2627

RUEHBY/AMEMBASSY CANBERRA PRIORITY 2816

RUEHLO/AMEMBASSY LONDON PRIORITY 0655

RUEHUL/AMEMBASSY SEOUL PRIORITY 1770

RUEHKO/AMEMBASSY TOKYO PRIORITY 2667

RUEHGV/USMISSION GENEVA PRIORITY 1763

C O N F I D E N T I A L SECTION 01 OF 02 KUALA LUMPUR 000716

SIPDIS

E.O. 12958: DECL: 08/25/2019

TAGS: PHUM MY

SUBJECT: CANING PUNISHMENT POSTPONED UNTIL AFTER RAMADAN,
BUT DEBATE CONTINUES

Classified By: Political Counselor Brian D. McFeeters for reasons 1.4 b
and d.

¶1. (SBU) SUMMARY: Malaysian Kartika Sari Dewi Shukarno, a Muslim woman recently sentenced by a state-level Syariah court to six lashes with a cane for consuming alcohol in public, has been granted a temporary reprieve until after Ramadan ends in late September. The GOM appears to see the case as an embarrassment it would like to be rid of, while at the same time treading carefully to avoid upsetting conservative Muslims. END SUMMARY.

¶2. (SBU) Kartika's sentence garnered international attention after she became the first Muslim woman in Malaysia to receive this punishment under Syariah law; she was also fined 5000 Malaysian Ringgit (\$1400 USD). A hospital nurse who normally resides in Singapore with her husband and two children, she requested the punishment be carried out in public and to be done as quickly as possible, so she could return to her family and job in Singapore. (Note: Although this is the first time a Muslim woman has been subject to caning in Malaysia, it is common practice by immigration officials. According to Prison Department records, nearly 35,000 prisoners, mostly migrants held under illegal immigration charges, have been whipped since 2002. End Note.)

Caning Suspended...for Now

¶3. (SBU) The announcement to suspend Kartika's caning came from Pahang's Religious Affairs Department on August 24, who claimed that it would be against the principles of Islam to cane Kartika during the holy month of Ramadan (August 23 - September 19). The decision was influenced by a letter sent to Pahang Syariah Chief Judge from the Attorney General's chambers. Press reports indicate that the Attorney General suggested it was "not advisable" for the punishment to occur during Ramadan. (Note: The Attorney General's office is responsible for the enforcement of civil and criminal -- but not Syariah -- laws in Malaysia. Only Muslims are subject to Syariah law, and by legal definition all ethnic Malays are considered Muslim from birth. Under Malaysian civil law, the whipping of women is also prohibited. End Note.)

Next Steps

¶4. (SBU) This latest decision by the judge gives Kartika a reprieve until September 20. Since the delay was announced, key government officials have weighed in. Prime Minister Najib Tun Razak urged Kartika to appeal, while indirectly criticizing the punishment. PM Najib said on August 24: "we must not go overboard...we must look at Islam as a religion

that is fair, just, merciful, and compassionate." He added "I hope the right people would hear what I have just said." Home Minister Hishammuddin Tun Hussein ordered a separate suspension of the caning on August 25, saying that Malaysia's Prisons Department did not have staff with the requisite training to mete out the punishment according to Syariah law.

Without stating how long it would take for someone be trained, Hishammuddin noted "as long as the Home Ministry is not ready, the sentence will not be carried out."

¶5. (SBU) It is also possible that Kartika may escape the caning due to a legal technicality. According to the Home Ministry, only a prisoner can be caned; however, Kartika was not sentenced to any time in prison. According to Chief Syariah Judge Ismail Yahya of the neighboring state of Terengganu, detaining Kartika for the sole purpose of caning would be illegal. Law lecturer Professor Shad Saleem Faruqi noted that any detention of Kartika would be tantamount to sentencing her a second time, which is inconsistent with Malaysian criminal, civil, and Syariah law.

¶6. (C) Comment: We believe that the Najib administration seeks to avoid additional international exposure and potential embarrassment from the caning, and will quietly press for the punishment to be dropped. Externally Najib is concerned about any action that would detract from Malaysia's image as a moderate Muslim nation, while internally he seeks to placate moderate and non-Malays. However, Najib is hesitant to criticize Syariah law or otherwise downplay the seriousness of the offense, as it could potentially alienate some moderate and more conservative Malays. Ethnic Malays

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are the key to Najib's power base, and even a slight shift in Malay support could have a significant impact on Najib's popularity ratings. End Comment.

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